

***United States Court of Appeals
for the Second Circuit***



APPENDIX

DOCKET NOS.

ORIGINAL

74-2098 and

B
PLS

74-2132

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

DOCKET NOS. 74-2098 and 74-2132

CONTAINAIR SYSTEMS CORPORATION,

Petitioner,

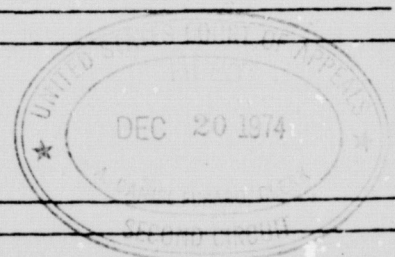
- against -

NATIONAL LABOR RELATIONS BOARD,

Respondent,

ON PETITION TO REVIEW AND SET ASIDE AN ORDER
OF THE NATIONAL LABOR RELATIONS BOARD AND
APPLICATION FOR ENFORCEMENT OF SAME

JOINT APPENDIX



PETER G. NASH,
General Counsel
National Labor Relations Board,
Washington, D.C. 20570

KELLEY DRYE WARREN CLARK
CARR & ELLIS
Attorneys for Petitioner,
350 Park Avenue
New York, New York 10022
PL 2-5800

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PAGINATION AS IN ORIGINAL COPY

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CHRONOLOGICAL LIST OF RELEVANT DOCKET ENTRIES

- 2.25.74 Charge filed by Containair Systems Corporation in 29-CB-1729
- 2.25.74 Charge filed by Containair Systems Corporation in 29-CC-401
- 2.25.74 Representation Petition filed by Local 295, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America in 29-RC-2581
3. 6.74 Consolidated Complaint and Notice of Hearing in 29-CB-1729 and 29-CC-401, dated
3. 7.74 Proposed Stipulation, mailed
- 3.18.74 Charging Party's statement to the Regional Director in opposition to Stipulation, dated
- 3.22.74 Notification from Regional Director of modification of Stipulation, dated
4. 1.74 Charging Party's statement to the Regional Director in opposition to the modified Stipulation, dated
4. 4.74 Order cancelling hearing, dated
- 4.30.74 Office of General Counsel approves the modified Stipulation
5. 2.74 Notice of submission of the modified Stipulation to the National Labor Relations Board, dated
5. 9.74 Charging Party's statement to the National Labor Relations Board in opposition to the modified Stipulation, dated
- 7.16.74 Decision and Order issued by the National Labor Relations Board, dated

JA2

FORM NLRB-201
(12-55)Form Approved
Budget Bureau No. 68-10-112UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

INSTRUCTIONS: File an original and 3 copies of this charge and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name

Local No. 295, International Brotherhood of Teamsters

b. Union Representative to Contact

James Custer

c. Phone No.

600-7171

d. Address (Street, city, State and ZIP code)

179-30 149th Avenue, Jamaica, New York

e. The above-named organization(s) or its agent(s) has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) 7(b)(1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), (21), (22), (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (44), (45), (46), (47), (48), (49), (50), (51), (52), (53), (54), (55), (56), (57), (58), (59), (60), (61), (62), (63), (64), (65), (66), (67), (68), (69), (70), (71), (72), (73), (74), (75), (76), (77), (78), (79), (80), (81), (82), (83), (84), (85), (86), (87), (88), (89), (90), (91), (92), (93), (94), (95), (96), (97), (98), (99), (100) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

From on or about February 22, 1974, the above-named labor organization or its agents are restraining or coercing employees in the exercise of the rights guaranteed in Section 7 of the National Labor Relations Act, as amended.

3. Name of Employer

Containair Systems Corporation

4. Location of Plant involved (Street, city, State and ZIP code)

145-80 228th Street, Springfield Gardens, New York 11413

5. Type of Establishment (Factory, mine, wholesaler, etc.)

Factory

6. Identify Principal Product or Service

Containers

7. No. of Workers Employed

31

8. Full Name of Party Filing Charge

Same as above

9. Address of Party Filing Charge (Street, city, State and ZIP code)

Same as above

10. Telephone No.

276-6600

11. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

Kelley Dye Warren Clark

By Carr Ellis

(Signature of representative or person making charge).

350 Park Avenue
Address New York, New York 10022

752-6800

(Telephone number)

February 25, 1974

(Date)

WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1501)

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GPO 665-416

FORM NLRD-303
(12-65)Form Approved
Budget Bureau No. 64-R003.12UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION OR ITS AGENTS

INSTRUCTIONS: File an original and 3 copies of this charge and an additional copy for each organization, each local and each individual named in item 1 with the NLRB regional director for the region in which the alleged unfair labor practice occurred or is occurring.

DO NOT WRITE IN THIS SPACE

Case No.

Date Filed

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT

a. Name

Local No. 295, International Brotherhood
of Teamsters

b. Union Representative to Contact

James Custer

c. Phone No.

527-7170

d. Address (Street, city, State and ZIP code)

179-30 149th Avenue, Jamaica, New York

e. The above-named organization(s) or its agent(s) has (have) engaged in and is (are) engaging in unfair labor practices within the meaning of section 8(b), subsection(s) (3) (4) (5) of the National Labor Relations Act, and these unfair labor practices are unfair labor practices affecting commerce within the meaning of the Act.
(List Subsections)

2. Basis of the Charge (Be specific as to facts, names, addresses, plants involved, dates, places, etc.)

From on or about February 25, 1974, the above-named labor organization or its agents are engaging in, or inducing or encouraging any individual employee by any person engaged in commerce or in an industry affecting commerce to engage in, a strike or a refusal in the course of his employment to use, process, transport or otherwise handle or work on any goods, articles, materials, or commodities or to perform any services, and are threatening, coercing or restraining persons engaged in commerce or in an industry affecting commerce where in either case an object thereof is to force or require Emery Air Freight Corp. and others to cease using, handling, transporting, or otherwise dealing in the products of Containair Systems Corporation.

3. Name of Employer

Containair Systems Corporation

4. Location of Plant Involved (Street, city, State and ZIP code)

145-80 228th Street, Springfield Gardens, New York 11413

5. Type of Establishment (factory, mine, wholesaler, etc.)

Factory

6. Identify Principal Product or Service

Containers

7. No. of Workers
Employed

31

8. Full Name of Party Filing Charge

Same as above

9. Address of Party Filing Charge (Street, city, State and ZIP code)

Same as above

10. Telephone No.

276-6500

11. DECLARATION

I declare that I have read the above charge and that the statements therein are true to the best of my knowledge and belief.

By Nelley Dwyer Warren Clark
Carr & Ellis
(Signature of representative or person making charge)

350 Park Avenue
Address New York, New York 10022

Eugene T. D'Ablemont, Partner
752-5800 February 25, 1974
(Telephone number) (Date)

WILLFULLY FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

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CASE NAME CONTAINER SYSTEMS CORPORATIONCASE NO. 29-CB-1729; 29-CC-401NOTICE

Pursuant to the newly instituted pre-hearing procedures,
as set forth in the accompanying Complaint, PLEASE NOTE:

THE PRE-HEARING CONFERENCE in this matter is scheduled for
MARCH 25, 1974, at 4:00 P.M.,
in the Ceremonial Courtroom, 2nd floor, U. S. District Court, 225
Cadman Plaza East, Brooklyn, New York.

THE HEARING of the case is scheduled for
APRIL 10, 1974, at 11:00 A.M.,
at 16 Court Street, Fourth Floor, Brooklyn, New York.

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NATIONAL LABOR RELATIONS BOARD

NOTICE

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end. An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing.

However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements will not be granted unless good and sufficient grounds are shown and the following requirements are met:

- (1) The request must be in writing. An original and two copies must be served on the Regional Director;
- (2) Grounds therefor must be set forth in detail;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

Local 295, IOT
179-30 149 Avenue
Jamaica, New York

Containair Systems, Corp.
145-80 223 Street
Springfield Gardens, New York 11413

ATT: Julius Kupersmit

Friedlander, Gaines, Rutenberg
and Getz, Esqs.
1140 Avenue of the Americas
New York, New York 10036

ATT: Joe Rosenthal, Esq.

Kelley Drye Warren Clark
Carr & Ellis
350 Park Avenue
New York, New York 10022

ATT: Eugene D'Ablenont

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

LOCAL 295, AFFILIATED WITH INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS OF AMERICA

and

Cases Nos. 29-CB-1729
29-CC-401

CONTAINAIR SYSTEMS CORPORATION

ORDER CONSOLIDATING CASES, COMPLAINT:
NOTICE OF PRE-HEARING CONFERENCE; AND NOTICE OF HEARING

It having been charged in Case No. 29-CB-1729 by Containair Systems Corporation, herein called Containair, and in Case No. 29-CC-401 by Containair, that Local 295, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called Respondent, has engaged in, and is engaging in, certain unfair labor practices affecting commerce as set forth and defined in the National Labor Relations Act, as amended 29 U.S.C., Sec. 151, et seq., herein called the Act, the General Counsel of the National Labor Relations Board, herein called the Board, by the undersigned Regional Director for Region 29, having duly considered the matter and deeming it necessary in order to effectuate the purposes of the Act, and to avoid unnecessary costs or delay,

HEREBY ORDERS, pursuant to Section 102.33 of the Board's Rules and Regulations - Series 8, as amended, that these cases be, and they hereby are, consolidated.

Said cases having been consolidated, the General Counsel of the Board, on behalf of the Board, by the undersigned Regional Director, pursuant to Section 10(b) of the Act and the Board's Rules and Regulations-

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Series 8, as amended Section 102.15 hereby issues this Order Consolidating Cases, Complaint; Notice of Pre-Hearing; Conference; and Notice of Hearing and alleges as follows:

1. (a) The Charge in Case No. 29-CB-1729 was filed by Containair on February 25, 1974, and served by registered mail upon Respondent, on February 25, 1974.

(b) The Charge in Case No. 29-CC-401 was filed by Containair on February 25, 1974, and served by registered mail upon Respondent, on February 25, 1974.

2. (a) Containair is and has been at all times material herein a corporation duly organized under, and existing by virtue of, the laws of the State of New York.

(b) At all times material herein Containair has maintained its principal office and place of business at 145-80 228 Street, Springfield Gardens, County of Queens, and State of New York, herein called the plant, where it is, and has been at all times material herein, engaged in the manufacture, sale and distribution of pilfer-proof containers, and related products, and is engaged in the business of packing cargo for transport by air.

(c) During the past year, which period is representative of its annual operations generally, Containair, in the course and conduct of its business, purchased and caused to be transported and delivered to its plant, paper, corrugated paper, wood, and other goods and materials valued in excess of \$50,000 of which goods and materials valued in excess of \$50,000 were transported and delivered to its plant in interstate commerce directly from states of the United States other than the state in which it is located.

(d) During the past year, which period is representative of its annual operations generally, Containair, in the course and conduct of its business operations, manufactured, sold and distributed at its plant,

products valued in excess of \$50,000, of which products valued in excess of \$50,000 were shipped from said plant in interstate commerce directly to states of the United States other than the state in which it is located.

3. (a) Emery Air Freight Corporation, herein called Emery, is and has been at all times material herein a corporation duly organized under, and existing by virtue of, the laws of the State of New York.

(b) At all times material herein Emery has maintained its principal office at 245 Park Avenue in the City and State of New York and places of business at Building 88, John F. Kennedy International Airport, Jamaica, New York, herein called the JFK Facility, and at 182-17 149 Road, Laurelton, New York, herein called The Laurelton Facility, and various other places of business throughout the United States, where it is, and has been at all times material herein, a common carrier engaged in the business of interstate air freight forwarding and in performing related services.

(c) During the past year, which period is representative of its annual operations generally, Emery, in the course and conduct of its business operations, derived gross revenues therefrom in excess of \$50,000, from its interstate freight forwarding services.

4. Containair and Emery each are and have been at all times material herein persons engaged in commerce and in industries affecting commerce within the meaning of Sections 2(1), (6) and (7), and 8(b)(4) of the Act.

5. Respondent is and has been at all times material herein a labor organization within the meaning of Section 2(5) of the Act.

6. James Costa, Mickey Hunt, and Jack Moran, are, and have been at all times material herein, the President, Business Agent and Shop Steward, respectively of Respondent, acting on its behalf, and agents thereof,

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7. At all times material herein, Emery has had a collective bargaining agreement with Respondent, covering, inter alia, freight handling employees at the JFK facility, including the terminal and dock employees of Emery at that facility.

8. Since on or about February 22, 1974, Respondent has been engaged in a labor dispute with Containair because Containair is not a party to a collective bargaining agreement with Respondent and because Containair's employees are not members of or represented by Respondent.

9. (a) On or about February 22, 1974, at the instance of Respondent and in its interest and behalf, and in furtherance of its dispute with Containair as described above in paragraph 8, various employees of Containair ceased work concertedly and went out on strike, and since that date have engaged in such work stoppage and strike.

(b) On or about February 22, 1974, Respondent commenced picketing and caused Containair to be picketed, at and in the vicinity of Containair's plant.

10. On or about February 22, and March 1, 1974, and at various other dates presently unknown during the period from February 22, to March 1, 1974, Respondent, by its agents and pickets, Eddie Lunsford, George Billops and Lonnie Gentry, and by other persons acting in its behalf, threatened various employees and supervisors of Containair to inflict bodily injury and other harm to their persons, and threatened to inflict damage to their property with an object to induce the said employees of Containair to support and assist Respondent, and not to cross the picket line established by Respondent at Containair's plant as described above in paragraph 9.

11. On or about February 25 and 26, 1974, and on other dates presently unknown in February and March, 1974, Respondent, in furtherance of its dispute with Containair, as described above in paragraph 8, above by

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Mickey Hunt, its Business Agent, encouraged and induced, ordered, requested, urged, instructed and directed its members employed by Emery at the JFK facility not to work on or otherwise handle freight or material received from Containair.

12. In furtherance of Respondent's dispute with Containair, as described above in paragraph 3, Respondent's members employed by Emery at the JFK facility, pursuant to the instructions issued to them by Respondent, as described in paragraph 11, above, from February 25 through 28, 1974 engaged in a work stoppage and a concerted refusal to work on, or otherwise handle, freight or products received from Containair.

13. On or about February 22, and 25 through 28, 1974, and on various other dates presently unknown, Respondent, by Mickey Hunt and Jack Moran, its Business Agent and Shop Steward, respectively, and its agents, threatened, coerced and restrained Emery and other persons engaged in commerce and in industries affecting commerce by the conduct described above in paragraphs 11 and 12, and by threatening Emery with labor problems, and by threatening Emery that it would not permit its members employed by Emery at the JFK facility to work on, or otherwise handle, products received from Containair, if Emery continued to use and handle Containair's products, or if Emery continued to do business with Containair.

14. Respondent, by the acts and conduct described in paragraphs 11 and 12 above, has engaged in, and has induced and encouraged individuals employed by Emery, and by other persons engaged in commerce or in industries affecting commerce, to engage in strikes or refusals in the course of their employment to use, manufacture, process, transport or otherwise handle or work on goods, articles, materials or commodities, or to perform services for their respective employers.

15. Respondent, by the acts and conduct described in paragraphs 11 through 13 above, has threatened, coerced and restrained Emery, and other persons engaged in commerce or in industries affecting commerce.

16. Respondent engaged in the conduct described above in paragraphs 11 through 15, in furtherance of its dispute with Containair, as described above in paragraph 8, and with an object to force and require Emery and other persons to cease using, selling, handling, transporting, and otherwise dealing in the products of Containair and to cease doing business with Containair.

17. By the acts described above in paragraph 10, and by each of said acts, Respondent restrained and coerced, and is restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, and thereby engaged in and is engaging in unfair labor practices affecting commerce within the meaning of Section 8(b)(1)((A) and Section 2 (6) and (7) of the Act.

18. By the acts described above in paragraphs 11 through 15, and by each of said acts, for the objects described above in paragraph 15, Respondent engaged in and is engaging in unfair labor practices affecting commerce within the meaning of Section 8 (b)(4)(i) and (ii)(B), and Section 2(6) and (7) of the Act.

19. The acts of Respondent described above in paragraphs 10 through 16, occurring in connection with the operations of Containair, described above in paragraph 2, have a close, intimate, and substantial relation to trade, traffic and commerce among the several States and tend to lead to labor disputes burdening and obstructing commerce and the free flow of commerce.

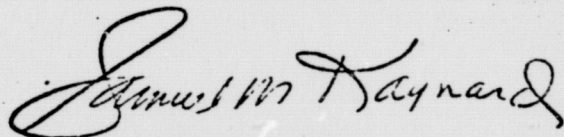
PLEASE TAKE NOTICE that on the 25th day of March 1974 at 4:00 p.m. at the Ceremonial Courtroom, 2nd Floor, U. S. District Court, 225 Cadman Plaza East, in the Borough of Brooklyn, City and State of New York, a pre-hearing conference will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board.

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PLEASE TAKE FURTHER NOTICE that on the 10th day of April 1974, at 11:00 a.m. at 16 Court Street, Fourth Floor, in the Borough of Brooklyn, State of New York, a hearing will be conducted before a duly designated Administrative Law Judge of the National Labor Relations Board on the allegations set forth in the above Complaint, at which time and place you will have the right to appear in person, or otherwise, and give testimony. Form NLRB-4668, Statement of Standard Procedures in formal hearings held before the National Labor Relations Board in unfair labor practice cases, is attached.

You are further notified that, pursuant to Section 102.20 and 102.21 of the Board's Rules and Regulations, the Respondent shall file with the undersigned Regional Director, acting in this matter as agent of the National Labor Relations Board, an original and four (4) copies of an answer to the said Complaint within ten (10) days from the service thereof, and that unless it does so all the allegations in the Complaint shall be deemed to be admitted by it to be true and may be so found by the Board. Immediately upon the filing of its answer, Respondent shall serve a copy thereof on each of the other parties.

Dated at Brooklyn, New York this 6th day of March 1974.



Samuel M. Kaynard
Regional Director
National Labor Relations Board
16 Court Street
Brooklyn, New York 11241

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FORM NLRB-4658
(1-73)

(C CASES)

SUMMARY OF STANDARD PROCEDURES IN FORMAL HEARINGS HELD BEFORE THE
NATIONAL LABOR RELATIONS BOARD IN UNFAIR LABOR PRACTICE PROCEEDINGS
PURSUANT TO SECTION 10 OF THE NATIONAL LABOR RELATIONS ACT, AS AMENDED

The hearing will be conducted by an Administrative Law Judge of the National Labor Relations Board. He will preside at the hearing as an independent, impartial trier of the facts and the law and his decision in due time will be served on the parties. His headquarters are either in Washington, D.C. or San Francisco, California.

At the date, hour, and place for which the hearing is set, the Administrative Law Judge, upon the joint request of the parties, will conduct a "prehearing" conference, prior to or shortly after the opening of the hearing, to assure that the issues are sharp and clear-cut; or he may, on his own initiative, conduct such a conference. He will preside at any such conference, but he may, if the occasion arises, permit the parties to engage in private discussions. The conference will not necessarily be recorded, but it may well be that the labors of the conference will be evinced in the ultimate record — for example, in the form of statements of position, stipulations, and concessions. Except under unusual circumstances, the Administrative Law Judge conducting the prehearing conference will be the one who will conduct the hearing; and it is expected that the formal hearing will commence or be resumed immediately upon completion of the prehearing conference. No prejudice will result to any party unwilling to participate in or to make stipulations or concessions during any prehearing conference.

(This is not to be construed as preventing the parties from meeting earlier for similar purposes. To the contrary, the parties are encouraged to meet prior to the time set for hearing in an effort to narrow the issues.)

Parties may be represented by an attorney or other representative and present evidence relevant to the issues.

An official reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the Administrative Law Judge for his approval.

All matter that is spoken in the hearing room while the hearing is in session will be recorded by the official reporter unless the Administrative Law Judge specifically directs off-the-record discussion. In the event that any party wishes to make off-the-record statements, a request to go off the record should be directed to the Administrative Law Judge and not to the official reporter.

Statements of reasons in support of motions and objections should be specific and concise. The Administrative Law Judge will allow an automatic exception to all adverse rulings, and, upon appropriate order, an objection and exception will be permitted to stand to an entire line of questioning.

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All exhibits offered in evidence shall be in duplicate. Copies shall also be supplied to other parties. If a copy of any exhibit is not available at the time the original is received, it will be the responsibility of the party offering such exhibit to submit the copy before the close of hearing. In the event such copy is not submitted, and the filing thereof has not for good reason shown been waived by the Administrative Law Judge, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

Any party shall be entitled, upon request, to a reasonable period at the close of the hearing for oral argument, which shall be included in the stenographic report of the hearing. In the absence of a request, the Administrative Law Judge may himself ask for oral argument, if at the close of the hearing he believes that such argument would be beneficial to his understanding of the contentions of the parties and the factual issues involved.

Any party shall also be entitled upon request made before the close of the hearing, to file a brief or proposed findings and conclusions, or both, with the Administrative Law Judge who will fix the time for such filing.

Attention of the parties is called to the following requirements laid down in Section 102.42 of the Board's Rules and Regulations with respect to the procedure to be followed before the proceeding is transferred to the Board:

No request for an extension of time within which to submit briefs or proposed findings to the Administrative Law Judge will be considered unless received by the Chief Administrative Law Judge in Washington, D. C. (or in cases under the San Francisco, California branch office of the Division of Judges, the Presiding Judge in charge of such office) at least 3 days prior to the expiration of time fixed for the submission of such documents. Notice of request for such extension of time must be served simultaneously upon all other parties, and proof of such service furnished to the Chief Administrative Law Judge or Presiding Judge as the case may be. All briefs or proposed findings filed with the Administrative Law Judge must be submitted in triplicate, and may be in typewritten, printed, or mimeographed form, with service upon the other parties.

In due course the Administrative Law Judge will prepare and file with the Board his decision in this proceeding, and will cause a copy thereof to be served upon each of the parties. Upon filing of the said decision, the Board will enter an order transferring this case to itself, and will serve copies of that order, setting forth the date of such transfer, upon all parties. At that point, the Administrative Law Judge's official connection with the case will cease.

The procedure to be followed before the Board from that point forward, with respect to the filing of exceptions to the Administrative Law Judge's Decision, the submission of supporting briefs, requests for oral argument before the Board, and related matters, is set forth in the Board's Rules and Regulations, Series 8, as amended, particularly in Section 102.46, and following sections. A summary of the more pertinent of these provisions will be served upon the parties together with the order transferring the case to the Board.

Adjustments or settlements consistent with the policies of the Act reduce government expenditures and promote amity in labor relations. Upon request, the Administrative Law Judge will afford reasonable opportunity during the hearing for discussions between the parties if adjustment appears possible, and may himself suggest it.

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GPO 941-759

March 18, 1974

BY HAND

Samuel M. Kaynard, Esq.
Regional Director
Region 29
National Labor Relations Board
16 Court Street
Brooklyn, New York 11201

Re: Teamsters' Local 295
(Containair Systems Corporation)
Case Nos. 29-CB-1729 and 29-CC-401

Dear Mr. Kaynard:

As counsel for Containair Systems Corporation, the charging party in the above consolidated cases, and in accordance with Section 101.9 of the Board's Statement of Procedure, we object to the formal Stipulation of settlement that your office has proposed. We are totally opposed to any settlement that does not contain an admission clause for the following reasons:

The Complaint your office issued on March 6, 1974 charges Teamsters Local 295 with outrageous and irresponsible conduct

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Samuel M. Kaynard, Esq.

-2-

March 18, 1974

against Containair and its employees that clearly violated Section 8(b)(1)(A) of the Act and with coercive tactics against Containair and Emery Air Freight that clearly contravened Sections 8(b)(4)(1) and (11)(B), to wit: threatening to harm the person and property of Containair employees, its supervisors and others; threatening and coercing Emery Air Freight and other companies that deal with Containair, and threatening and coercing employees of those companies, in order to force them to cease using, handling, transporting or otherwise dealing with Containair's products. We are confident that your staff will agree that, were these matters litigated, the truth of the Complaint's allegations would be proven. We therefore can see no reason whatever for the Board to fail to require an admission clause in its settlement.

Any settlement that permits Respondent to escape formally admitting that it is guilty of these unlawful practices would not only fail to protect the public interest; it would actually work against it. It would reward a persistent wrong-doer and encourage it to engage in similar activities in the future. Certainly your office is aware of Local 295's proclivities toward unlawful conduct: within the last five years (1) it has engaged in recognitional picketing that violated Section 8(b)(7)(c) [Teamsters, Local 295 (Calderon Trucking Corp.)], 178 NLRB No. 10 (1969)]; (2) it has

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Samuel M. Kaynard, Esq.

-3-

March 18, 1974

insisted, in violation of Section 8(b)(3), that an employer sign a collective bargaining agreement [Teamsters, Local 295 (Emery Air Freight Corp.)], 197 NLRB No. 9 (1972), enf'd, 82 LRRM 3091 (2nd Cir. 1973)], and (3) as recently as last August it engaged in a secondary boycott for which your office issued a complaint [Teamsters, Local 295 (Air Line Freight, Inc.)], Case No. 29-CC-387 (1973)].

The last case, which involved the same kind of unlawful secondary boycott activities that this case does, was eventually settled by a formal Stipulation without an admission clause. The folly of that is clearly evident from the fact that the Union had no hesitation in employing the same unlawful secondary boycott tactics again, this time against Containair. How many other violations of the Act Respondent has been permitted to settle on the basis of a similar Stipulation, we don't know. We do know that any stipulation in this case that fails to include an admission clause cannot be used as evidence in any other judicial or administrative proceeding for the purpose of obtaining punitive damages, a broad injunctive order or other appropriate equitable and legal relief. Nor can it serve to make other employers, other employees, the general public and the courts aware of this Union's deliberate violations of the law.

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March 18, 1974

We also know that unless Respondent is required to admit its unlawful conduct in this case, it will try to give Containair's employees a false impression as to why it signed the settlement agreement. Respondent has pending before your office a representation petition covering Containair's employees. Those employees are entitled to receive from official sources a truthful picture of this Union's unlawful conduct and the extent to which that conduct hurt them. In this regard, we further believe that any settlement and notice to Containair employees must specify, by tracking the language from paragraph 10 of the Complaint, exactly how and why Respondent and their fellow employees, by name, violated their rights under Section 8(b)(1)(A). We consider this necessary because many of Containair's employees have not completed grammar school and have no idea what their rights under Section 7 are or how the law is supposed to protect them.

Even if you settle this case in the manner it should be settled, as outlined above, and therefore do not set this case down for a full hearing, we believe there should be an evidentiary hearing regarding the Section 8(b)(1)(A) aspects. It is essential that Containair's employees know --

(1) that the three fellow employees the Complaint names, Eddie Lundsford, George Billops and Lonnie Gentry, in fact unlawfully "threatened various employees and supervisors of Containair

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Samuel M. Kaynard, Esq.

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March 18, 1974

to inflict bodily injury and other harm to their persons, and threatened to inflict damage to their property with an object to induce the said employees of Containair to support and assist Respondent, and not to cross the picket line established by Respondent at Containair's plant...." Certainly these employees are not entitled to a "non-admission clause". Either they should formally admit their guilt in any settlement that is reached, or the Board should establish their guilt at a hearing;

(2) the identity of the "other persons acting in [Respondent's] behalf" who committed the same unlawful acts of gross misconduct as Lundsford, Billops and Gentry. We understand that your office took affidavits accusing Mickey Hunt, Respondent's Business Agent, of threatening Containair employees. Even though he was not cited in the Complaint for these threats, he should have been and his guilt should be established for the enlightenment of Containair's employees;

(3) the identity of the individuals responsible for the following incidents of serious and violent misconduct, which were not set forth in the Complaint but were detailed in affidavits to your office -- incidents of rocks being thrown at working Containair employees, of tires slashed, of gas lines and air hoses cut, of a gate enclosing Containair's tractor trailers pulled down and of drivers of independent trucking companies being threatened

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March 13, 1974

with personal injury and property damage not to make deliveries, which constitute oral secondary boycott activities. It is important to establish and show that these individuals were acting under the orders and direction of the Respondent.

We are confident that the Board will agree with us that the public interest, to which it is dedicated, demands that there be no settlement in this case without an admission clause, and that it should proceed to an evidentiary hearing on the issues outlined above.

Respectfully submitted,

Kelley Drye Warren Clark Carr & Ellis

By s/ Eugene D'Ablemont

A Member

ED:an

cc: Steven Davis, Esq.

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5A21
NATIONAL LABOR RELATIONS BOARD

REGION 29

16 Court Street

Brooklyn, New York 11241

Telephone (212) 596-3535

March 22, 1974

Kelley Drye Warren Clark
Carr & Ellis, Esqs.
350 Park Avenue
New York, New York 10022

ATT: Mr. Martin Heyert, Esq.

RE: Containair Systems Corp.
Cases Nos. 29-CA-3770
29-CB-1729
29-CC-401

Dear Mr. Heyert:

Your letter of March 18, 1974, has been carefully considered.

With regard to the formal Stipulation in the "CB" and "CC" cases captioned above, the Region is still of the opinion that the inclusion of a non-admission clause in the Stipulation is proper because it in no way affects the efficacy of the Board Order or Court decree which would be sought in this case, or any other outstanding orders or decrees against Local 295, I.B.T.

Further we believe that the enclosed Stipulation provides as complete a remedy as would be obtained after a Board hearing and thus a hearing on the merits is not required.

We have however, in response to your letter, modified the Stipulation's provisions in the following respects:

- 1) Included in paragraph 1(a) of the Order, and in the Notice more specific language, following in part the language of the Consolidated Complaint with regard to the 8(b)(1)(A) violations alleged in the Complaint issued on March 6, 1974.

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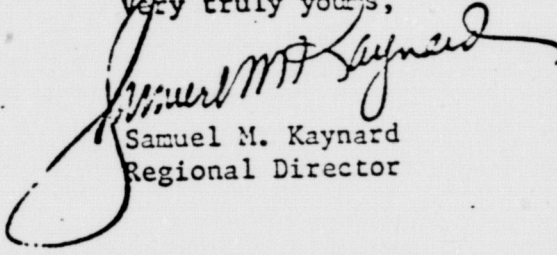
- 2) Added a new paragraph 1(b) to the Order, and in the Notice, which contains a broad "in any like or related manner" clause referring to the 8(b)(1)(A) allegations of the Complaint.

Respondent, Local 295, has agreed to the changes set forth above.

In view of the charges in the settlement and our discussion of your objections we request if you review the enclosed Stipulation and advise us promptly whether your client intends to enter into the Stipulation, and if not the reasons therefore.

Enclosed please find a copy of the charge in Case No. 29-CA-3770 as requested by Irving Brand, Esq., of your office.

Very truly yours,



Samuel M. Kaynard
Regional Director

SMK:ei

Encl.:

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April 1, 1974

BY HAND

Samuel M. Kaynard, Esq.
Regional Director
Region 29
National Labor Relations Board
16 Court Street
Brooklyn, New York 11201

Re: Teamster's Local 295
(Containair Systems Corporation)
Case Nos. 29-CB-1729 and 29-CC-401

Dear Mr. Kaynard:

In response to your letter of March 22, 1974 requesting us to review and to state our position with respect to the proposed modified Stipulation of settlement that letter transmitted, we oppose the modified Stipulation for the same reasons spelled out in our letter of March 18, 1974, except to the limited extent the modified Stipulation meets our prior objections.

We wish to reemphasize that the settlement of this case without Respondent's and the three named Containair employees'

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-2-

April 1, 1974

formally admitting that they are guilty of the unlawful practices charged in the Complaint herein is grossly detrimental to the public interest. Moreover, the failure of the Stipulation and the notice to Containair employees to specify that fellow employees, by name, violated their statutory rights constitutes a serious defect. Although the proposed Order refers to "agents" of Respondent, Containair's employees, many of whom have not completed grammar school, will construe "agent" solely to mean a paid representative of the Union like Mickey Hunt and will not understand that an agent technically, and specifically in this case, includes a fellow employee. Thus, in order to fully protect the rights of Containair employees, it is absolutely essential that the Stipulation and notice make clear that the continued unlawful conduct of fellow employees is prohibited.

For all the foregoing reasons, we believe that you should not enter into the proposed modified Stipulation with Respondent and that you should schedule an evidentiary hearing to discover the extent and scope of Respondent's 8(b)(1)(A) and 8(b)(4)(B) activities.

Respectfully submitted,

KELLEY DRYE WARREN CLARK CARR & ELLIS

By s/ Eugene T. D'Ablemont
A Member

ETD'A:kkk

cc: Steven Davis, Esq.

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

LOCAL 295, AFFILIATED WITH INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS OF AMERICA

and

Case Nos. 29-CB-1729
29-CC-401

CONTAINAIR SYSTEMS CORPORATION

STIPULATION

IT IS HEREBY STIPULATED AND AGREED by and between Local 295, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called Respondent, Containair Systems Corporation, herein called Containair, and the General Counsel of the National Labor Relations Board, that:

1. Upon charges filed by Containair on February 25, 1974, and served upon the Respondent on February 25, 1974, receipt of which charges is hereby acknowledged by Respondent, the General Counsel of the National Labor Relations Board, on behalf of the National Labor Relations Board, herein called the Board, by the Regional Director for Region 29, acting pursuant to authority granted in Section 10 (b) of the National Labor Relations Act, 29 U.S.C., Sec. 151, et seq., herein called the Act and Section 102.33 of the Board's Rules and Regulations, Series 8, as amended, issued a Complaint; Notice of Pre-Hearing Conference; and Notice of Hearing, against the Respondent on March 6, 1974. True copies of the aforesaid Complaint; Notice of Pre-Hearing Conference; and Notice of Hearing were duly served by registered mail on the Respondent and

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Containair on March 6, 1974, receipt of which are hereby acknowledged by all parties.

2. Containair is a New York corporation maintaining its principal office and sole place of business at 145-80 228 Street, Springfield Gardens, New York, where it is engaged in the manufacture, sale and distribution of pilfer-proof containers and related products, and is engaged in the business of packing cargo for transport by air.

Containair, in the conduct of its business operations during the 1 - year period ending March 1, 1974, its operations during said period being representative of its operations at all times material herein, purchased paper, corrugated paper and wood of a value in excess of \$50,000, all of which was purchased directly from business concerns located outside the State of New York, and was shipped by such concerns from points outside the State of New York directly to Containair at its plant. During the same period Containair, at its plant, manufactured and sold finished products of a value in excess of \$50,000, all of which was sold and shipped to customers outside the State of New York. Containair is now and has been at all times material herein a person engaged in commerce and in an industry affecting commerce within the meaning of Section 2(1), 2(6) and (7) and 8(b)(4) of the Act.

3. Emery Air Freight Corporation, herein called Emery, is a New York corporation maintaining its principal office at 245 Park Avenue, New York, New York, and places of business at Building 88, John F. Kennedy International Airport, herein called the JFK facility, and at 182-17 149 Road, Laurelton, New York, herein called the Laurelton Facility and various other places of business throughout the United States, where it is a common carrier engaged in the business of interstate air freight forwarding.

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Emery, in the conduct of its business operations during the 1-year period ending March 1, 1974, its operations during said period being representative of its operations at all times material herein, derived gross revenues therefrom in excess of \$50,000, from its interstate freight forwarding services. Emery is now and has been at all times material herein a person engaged in commerce and in an industry affecting commerce within the meaning of Section 2(1), 2(6) and 2(7) and 3(b)(4) of the Act.

4. Respondent is a labor organization within the meaning of Section 2(5) of the Act.

5. All parties hereto waive the filing of answer, hearing, Administrative Law Judges' Decisions, the filing of exceptions and briefs, oral argument before the Board, the making of findings of fact or conclusions of law by the Board, and all further and other proceedings to which the parties may be entitled under the Act or the Board's Rules and Regulations.

6. This Stipulation, together with the charges, Complaint; Notice of Pre-Hearing Conference; and Notice of Hearing shall constitute the entire record herein.

7. Upon this Stipulation and the record as described in paragraph 6 hereof and without any further notice of proceedings herein, the Board may enter an Order forthwith providing as follows:

ORDER

Respondent Local 295, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called Local 295, its officers, agents, successors and assigns shall:

1. Cease and desist from:

(a) Threatening employees and supervisors of Containair Systems Corporation, herein called Containair, or any other employer, to inflict injury, or threatening to inflict damage with an object to induce employees of Containair or any other employer to support and assist Local 295, not to cross the picket line established by Local 295 at Containair's plant.

(b) In any like or related manner restraining or coercing employees of Containair or any other employer, in the exercise of the rights guaranteed by Section 7 of the Act.

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(b) In any manner or by any means, including strikes, work stoppages, picketing, threats, orders, directions, instructions, requests or appeals, however given, made or imparted, or by any like or related acts or conduct, or by permitting any such to remain in existence or effect, engaging in, or inducing or encouraging any individual employed by Emery Air Freight Corporation, herein called Emery, or by any other person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or a refusal in the course of his employment to use, transport, or otherwise handle or work on any goods, articles, materials or commodities or to perform any services, or in any manner or by any means, threatening, coercing or restraining Emery or any other person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is to force or require Emery or any other person, to cease doing business with Containair or any other person.

2. Take the following affirmative action to effectuate the policies of the National Labor Relations Act, as amended:

(a) Post immediately in conspicuous places at its office at 179-30 149 Avenue, Springfield Gardens, New York, copies of the Notice to Members attached hereto and marked "Appendix A." ^{1/} Copies of the said Notices to be furnished by the Regional Director for Region 29, shall, after being signed by Respondent's representative, be posted immediately upon receipt thereof, and maintained for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

^{1/} In the event that this Order is enforced by a Judgment of a United States Court of Appeals, there shall be substituted for the words "Posted by Order of the," the words "Posted pursuant to a Judgment of the United States Court of Appeals, Enforcing an Order of the."

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(b) Furnish to the Regional Director for Region 29, signed copies of said Notice for posting by Emery if it is willing, at places where it customarily posts notices to its employees.

(c) Notify in writing Emery that Respondent has no objection to its doing business with Containair.

(d) Notify the Regional Director for Region 29 in writing, within ten (10) days from the date of this Order, what steps have been taken to comply herewith.

8. The United States Court of Appeals for any appropriate circuit may, upon application by the Board enter its judgment enforcing the order of the Board in the form set forth in paragraph 7 hereto. The Respondent waives all defenses to the entry of the judgment, provided that the judgment is in the words set forth in paragraph 7 hereof. However, the Respondent shall be required to comply with the affirmative provisions of the Board's order after entry of the judgment only to the extent that it has not already done so.

9. This stipulation, together with the other documents constituting the record as described in paragraph 6 hereof, shall be filed with the Board. The stipulation is subject to the approval of the Board, and it shall be of no force and effect until the Board has granted such approval. Upon the Board's approval of the stipulation, the Respondent will immediately comply with the provisions of the order as set forth in paragraph 7 hereof.

10. This stipulation contains the entire agreement between the parties, there being no agreement of any kind, verbal or otherwise, which varies, alters or adds to it. It is understood that the signing of this stipulation by the Respondent does not constitute an admission that it has violated the Act.

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Signed at

this 17th day of March 1974

LOCAL 295, INTERNATIONAL BROTHERHOOD
OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA
179-30 149 AVENUE
SPRINGFIELD GARDENS, NEW YORK

BY: [Signature]

(Name and Title)

Signed at

this day of 1974

CONTAINER SYSTEMS CORPORATION
145-30 223 STREET
SPRINGFIELD GARDENS, NEW YORK

BY: _____

(Name and Title)

APPROVAL BY GENERAL COUNSEL
RECOMMENDED:

[Signature: Steven Davis]
STEVEN DAVIS
ATTORNEY, REGION 29
NATIONAL LABOR RELATIONS BOARD

APPROVED:

[Signature: Paul L. F.]
OFFICE OF THE GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
WASHINGTON, D.C.

DATED: April 30 1974

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NOTICE TO MEMBERS



POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
AN AGENCY OF THE UNITED STATES GOVERNMENT

WE WILL NOT threaten employees and supervisors of Containair Systems Corporation, or any other employer, to inflict injury, or threaten to inflict damage with an object to induce employees of Containair or any other employer to support and assist Local 295, or not to cross the picket line established by Local 295 at Containair's plant.

WE WILL NOT in any manner or by any means, including strikes, work stoppages, picketing, threats, orders, directions, instructions, requests or appeals, however given, made or imparted, or by any like or related acts or conduct, or by permitting any such to remain in existence or effect, engage in, or induce or encourage any individual employed by Emery Air Freight Corp., or by any other person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or a refusal in the course of his employment to use, transport, or otherwise handle or work on any goods, articles, materials or commodities or to perform any services, or in any manner or by any means, threaten, coerce or restrain Emery Air Freight Corp., or any other person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is to force or require Emery Air Freight Corp., or any other person, to cease doing business with Containair Systems Corporation, or any other person.

WE WILL NOT in any like or related manner restrain or coerce employees of Containair or any other employer, in the exercise of the rights guaranteed by Section 7 of the Act.

LOCAL UNION 295, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS OF AMERICA

DATED: _____

BY: _____
(Name and Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, Brooklyn, New York, TEL: 596-3535; 596-5291

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NATIONAL LABOR RELATIONS BOARD

OFFICE OF THE GENERAL COUNSEL

Washington, D.C. 20570

MAY 2 1974

Eugene T. D'Ablemont, Esq.
 Kelley, Drye, Warren, Clark
 Carr & Ellis
 350 Park Avenue
 New York, New York 10022

Re: Local 295, affiliated with
 International Brotherhood of
 Teamsters, Chauffeurs, Warehousemen,
 and Helpers of America
 (Containair Systems Corporation)
Cases Nos. 29-CB-1729, CC-401

Dear Mr. D'Ablemont:

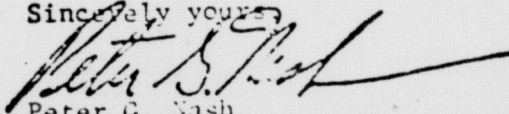
Regional Director Samuel M. Kaynard has forwarded to me a Settlement Stipulation in the above-captioned case for approval and submission to the Board. It was alleged in the complaint in this case that Respondent Union had engaged in certain acts and conduct violative of Sections 8(b)(1)(A) and 8(b)(4)(i) and (ii)(B) of the National Labor Relations Act. You filed both charges on behalf of the Employer, Containair Systems Corporation.

I have been informed that the Region has offered you an opportunity to join in this Settlement or object to it on behalf of the Employer. I have been further informed that you have indicated to the Region that you object to the Settlement on the grounds that it does not contain an admission clause, that it does not specify names of employees alleged to have violated the Act, and on grounds that an evidentiary hearing is necessary to discover the full scope of Respondent's violative activities.

I have reviewed the Settlement Stipulation and concluded that it provides a full and complete remedy for the unfair labor practices alleged in the complaint. In particular, I note that it provides for a consent Board Order and Court Judgment. Therefore, I have this date submitted the Stipulation to the Board with the recommendation that it be approved and that the Board issue the appropriate order.

In the event you now wish to participate in this Settlement or set forth a position in regard to it, please submit your position to the National Labor Relations Board no later than May 14, 1974.

Sincerely yours,


 Peter G. Nash
 General Counsel

cc: Local 295, I.B.T.

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May 9, 1974

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

National Labor Relations Board
1717 Pennsylvania Avenue
Washington, D.C. 20570

Re: Teamsters' Local 295
(Containair Systems Corporation)
Cases Nos. 29-CB-1729 and 29-CC-401

Dear Sirs:

As counsel for Containair Systems Corporation, the charging party in the above consolidated cases, and in accordance with Section 101.9(c)(2) of the Board's Statement of Procedure, we hereby affirm our objections to the formal Settlement Stipulation that Regional Director Samuel M. Kaynard and the General Counsel of the Board have submitted to you for approval on the grounds set forth in our letters to Mr. Kaynard dated March 18, 1974 and April 1, 1974, copies of which are attached hereto, and respectfully request a hearing on our objections to the Stipulation.

Respectfully submitted,

KELLEY DRYE WARREN CLARK CARR & ELLIS

By s/ Eugene T. D'Ablenont
Eugene T. D'Ablenont
(A Member)

ETD'A:htl
Enclosures

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UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

LOCAL 295, AFFILIATED WITH
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN
AND HELPERS OF AMERICA

and

Cases 29-CB-1729
29-CC-401

CONTAINAIR SYSTEMS CORPORATION

DECISION AND ORDER

Statement of the Cases

On March 12, 1974, Local 295, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, herein called Respondent, and the General Counsel of the National Labor Relations Board entered into a Stipulation, in settlement of the cases, providing for the entry of a consent order by the Board and a consent judgment by any appropriate United States Court of Appeals. The parties waived all further and other procedure before the Board to which they may be entitled under the National Labor Relations Act, as amended, and the Rules and Regulations of the Board, and Respondent waived its right to contest the entry of a consent judgment or to receive further notice of the application therefor.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The aforesaid Stipulation is hereby approved and made a part of the record herein, and the proceeding is hereby transferred to and continued before the Board in Washington, D. C., for the entry of a 1/ Decision and Order pursuant to the provisions of the said Stipulation.

1/ Containair Systems Corporation, the Charging Party herein, by letter dated March 18, 1974, has objected to the Stipulation on the basis that (1) the Stipulation should not contain a clause in which the Respondent does not admit that it has violated the Act; (2) the Stipulation and Notice should name the perpetrators of the alleged misconduct; and (3) that an evidentiary hearing should be conducted to clarify for the employees that their fellow employees' unlawful conduct is also prohibited, and to discover the extent of the alleged violations. Previous objections concerning the scope of the Order are no longer in issue following a modification of the Stipulation in response to such objections. (Continued)

Upon the basis of the aforesaid Stipulation and the entire record in the proceeding, the Board makes the following:

Findings of Fact

1. The business of the Employers

Containair Systems Corporation, hereinafter called Containair, is a New York corporation maintaining its principal office and sole place of business at 145-80 220th Street, Springfield Gardens, New York, where it is engaged in the manufacture, sale and distribution of pilfer-proof containers and related products, and is engaged in the business of packing cargo for transport by air.

1/ By letter dated March 22, 1974, the Regional Director responded to the Charging Party's objections and solicited further comment thereon. By letter dated April 1, 1974, the Charging Party submitted further objections to the settlement, basically on the same grounds. Thereafter, the Regional Director transmitted the Stipulation to the General Counsel with a recommendation for approval. On May 2, 1974, the General Counsel advised the Charging Party that he had reviewed the Stipulation and was satisfied that it fully and completely remedied the allegations of the complaint and, accordingly, he would recommend to the Board that the Stipulation be approved. The General Counsel further advised that the Charging Party had until May 14, 1974, to submit its position to the Board. On May 20, 1974, the Charging Party filed with the Board its correspondence dated March 18, and April 1, 1974, as a statement of its position, and requested a hearing on its objections.

With respect to the Charging Party's objections, the Regional Director informed the Charging Party that in view of the complete remedy for the allegations of the complaint provided by the Stipulation, no evidentiary hearing was necessary, and the General Counsel agreed. Concerning the nonadmissions provision, the General Counsel and the Regional Director advised the Charging Party that the provision did not affect the efficacy of the Board Order or Court judgment, and thus represented no impediment to enforcement thereof.

With regard to the Charging Party's objection that the Stipulation and Notice should state the names of the perpetrators of the alleged misconduct, we find that the term "agents" as used in the settlement and Notice encompass any persons engaged in violative conduct at the instance of the Respondent, and follows the allegations of the complaint. The employees of the Charging Party will be sufficiently protected by this provision, against future misconduct, if any, by persons acting at the direction of the Respondent. We normally do not specify the names of agents in our remedy, in large part because identification of such employees cannot be made with any degree of certainty and, in any event, we do not believe that stating the names of those agents allegedly involved would enhance the employees' protection. (Continued)

Containair, in the conduct of its business operations during the 1-year period ending March 1, 1974, its operations during said period being representative of its operations at all times material herein, purchased paper, corrugated paper and wood of a value in excess of \$50,000, all of which were purchased directly from business concerns located outside the State of New York, and were shipped by such concerns from points outside the State of New York directly to Containair at its plant. During the same period Containair, at its plant, manufactured and sold finished products of a value in excess of \$50,000, all of which were sold and shipped to customers outside the State of New York.

Emery Air Freight Corporation, herein called Emery, is a New York corporation maintaining its principal office at 245 Park Avenue, New York, New York, and places of business at Building 88, John F. Kennedy International Airport, herein called the JFK facility, and at 182-17 149 Road, Laurelton, New York, herein called the Laurelton facility and various other places of business throughout the United States, where it is a common carrier engaged in the business of interstate air freight forwarding.

Emery, in the conduct of its business operations during the 1-year period ending March 1, 1974, its operations during said period being representative of its operations at all times material herein, derived gross revenues in excess of \$50,000 from its interstate air freight forwarding services.

The Respondent admits, and we find, that Containair and Emery are persons engaged in commerce and in an industry affecting commerce within the meaning of Section 2(1), (6) and (7) and Section 8(b)(4) of the Act.

2. The labor organization involved

Local 295, affiliated with International Brotherhood of Teamsters, Chauffeurs; Warehousemen and Helpers of America, is a labor organization within the meaning of Section 2(5) of the Act.

ORDER

Upon the basis of the above findings of fact, the Stipulation, and the entire record in the proceeding, and pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that:

- 1/ Upon careful review of the Stipulation and the attached records and, in view of the recommendations of the Regional Director and the General Counsel, we are satisfied that the Stipulation fully remedies the allegations of the complaint, providing as it does for the entry of a formal Board Order and a consent Court Judgment. In these circumstances, we find that it will effectuate the policies of the Act to approve the Stipulation, and the Charging Party's objections are dismissed as lacking in merit.

The Respondent, Local 295, affiliated with International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, its officers, agents, and representatives:

1. Cease and desist from:

(a) Threatening employees and supervisors of Containair Systems Corporation, herein called Containair, or any other employer, to inflict injury, or threatening to inflict damage, with an object to induce employees of Containair or any other employer to support and assist Local 295, or not to cross the picket line established by Local 295 at Containair's plant.

(b) In any like or related manner restraining or coercing employees of Containair, or any other employer, in the exercise of the rights guaranteed by Section 7 of the Act.

(c) In any manner or by any means, including strikes, work stoppages, picketing, threats, orders, directions, instructions, requests or appeals, however given, made or imparted, or by any like or related acts or conduct, or by permitting any such to remain in existence or effect, engaging in, or inducing or encouraging any individual employed by Emery Air Freight Corporation, herein called Emery, or by any other person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or a refusal in the course of his employment to use, transport, or otherwise handle or work on any goods, articles, materials or commodities or to perform any services, or in any manner or by any means, threatening, coercing or restraining Emery or any other person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is to force or require Emery, or any other person, to cease doing business with Containair or any other person.

2. Take the following affirmative action which the National Labor Relations Board finds will effectuate the policies of the National Labor Relations Act, as amended:

(a) Post immediately at its office at 179-30 149th Avenue, Springfield Gardens, New York, copies of the attached Notice to Members. ^{2/} Copies of the said Notices, on forms provided by the Regional Director for Region 29, shall after being signed by Respondent's representative, be posted immediately upon receipt thereof, and maintained for 60 consecutive days thereafter in conspicuous places, including all places where notices to members are customarily posted. Reasonable steps shall be taken by Respondent to insure that said notices are not altered, defaced, or covered by any other material.

^{2/} In the event the Board's Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall be changed to read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

(b) Furnish to the Regional Director for Region 29, signed copies of said Notice for posting by Containair and Emery, if they are willing, at places where they customarily post notices to their employees.

(c) Notify Emery, in writing, that Respondent has no objection to its doing business with Containair.

(d) Notify the Regional Director for Region 29, in writing, within 10 days from the date of this Order, what steps have been taken to comply herewith.

Dated, Washington, D. C., JUL 16 1974

John H. Fanning, Member

Ralph E. Kennedy, Member

John A. Penello, Member

NATIONAL LABOR RELATIONS BOARD

(SEAL)

NOTICE TO MEMBERS

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

WE WILL NOT threaten employees and supervisors of Containair Systems Corporation, or any other employer, to inflict injury, or threaten to inflict damage with an object to induce employees of Containair or any other employer to support and assist Local 295, or not to cross the picket line established by Local 295 at Containair's plant.

WE WILL NOT in any manner or by any means, including strikes, work stoppages, picketing, threats, orders, directions, instructions, requests or appeals, however given, made or imparted, or by any like or related acts or conduct, or by permitting any such to remain in existence or effect, engage in, or induce or encourage any individual employed by Emery Air Freight Corp., or by any other person engaged in commerce or in an industry affecting commerce, to engage in a strike, work stoppage, or a refusal in the course of his employment to use, transport, or otherwise handle or work on any goods, articles, materials or commodities or to perform any services, or in any manner or by any means, threaten, coerce or restrain Emery Air Freight Corp., or any other person engaged in commerce or in an industry affecting commerce, where in either case an object thereof is to force or require Emery Freight Corp., or any other person, to cease doing business with Containair Systems Corporation, or any other person.

WE WILL NOT in any like or related manner restrain or coerce employees of Containair or any other employer, in the exercise of the rights guaranteed by Section 7 of the Act.

LOCAL UNION 295, AFFILIATED WITH INTERNATIONAL
BROTHERHOOD OF TEAMSTERS, CHAUFFEURS,
WAREHOUSEMEN AND HELPERS OF AMERICA
(Labor Organization)

Dated _____ By _____
(Representative) (Title)

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office, 16 Court Street, Brooklyn, New York, Telephone 212-596-3535.

ONLY COPY AVAILABLE

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UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----X

CONTAINAIR SYSTEMS CORPORATION, :

Petitioner, :

- against - :

NATIONAL LABOR RELATIONS BOARD, :

Respondent. :

-----X

AFFIDAVIT

Docket Nos. 74-2098
and
74-2132

STATE OF NEW YORK)
: SS.:
COUNTY OF NEW YORK)

DONNA GIGLIO, being duly sworn, deposes and says,
that she is over the age of 18 years, that she resides at
64-33 Cooper Avenue, Glendale, New York, New York 11227, and
that she is not a party to the above-entitled proceeding.

That on the 20th day of December, 1974, she served
the annexed Joint Appendix, on the attorneys hereinafter named
by depositing two true copies to each contained in securely
sealed, post paid wrappers, properly addressed to the said
attorneys as follows:

PETER G. NASH
General Counsel
National Labor Relations Board
Washington, D. C. 20570

ONLY COPY AVAILABLE

p2

DAVID KRAMER, ESQ.
Friedlander, Gaines, Cohen,
Rosenthal & Rosenberg
Counsel for Local 295
1140 Avenue of the Americas
New York, New York 10036

in the letter box regularly maintained and exclusively
controlled by the United States Government at No. 350 Park
Avenue, Borough of Manhattan, New York, New York 10022.

Danna Sylic

Sworn to before me this
20th day of December, 1974.

Joseph Warren

JOSEPH WARREN
Notary Public, State of New York
No. 03-9539130
Qualified in Bronx County
Certificate filed in New York County
Commission Expires March 30, 1976

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